

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Petition of Interstate
Power Company For Authority to Increase its
Rates for Electric Service in Minnesota

ISSUE DATE: January 21, 1988

DOCKET NO. E-001/GR-86-384

ORDER DENYING STAY, ORDERING
RATE REDUCTIONS, AND ORDERING
REFUNDS

PROCEDURAL HISTORY

On May 1, 1987 the Minnesota Public Utilities Commission (the Commission) issued its Order in the above-captioned general rate case. Among other things, that Order required Interstate Power Company (Interstate or the Company) to make specified rate adjustments due to tax savings resulting from the federal Tax Reform Act of 1986 (the Tax Reform Act).

On July 21, 1987 the Commission granted the Company a partial stay of its May 1 Order, pending resolution of certain issues on appeal. That stay allows the Company to collect revenues, subject to refund, at the level to which the Company would be entitled if successful as to those issues on appeal.

The Commission did not grant a stay on the issue of the treatment of taxes on unbilled revenues. The Company had contended that the new federal policy requiring payment of taxes on these revenues increased its costs and required an upward adjustment in its allowed expenses. The Commission rejected that contention.

On October 30, 1987 the Company filed a motion requesting a stay of the May 1 Order as to the issue of taxes on unbilled revenues.

STATEMENT OF THE ISSUE

The issue before the Commission is whether to grant a stay of that portion of the Order denying an upward adjustment in expenses to reflect the Company's payment of taxes on unbilled revenues.

FINDINGS AND CONCLUSIONS

Criteria for Granting a Stay

The Commission in its discretion will grant a stay whenever it appears that a stay provides the most equitable means of balancing the interests of the ratepayers and the interests of the utility.

The Commission is mindful of the fact that utilities cannot retroactively recover revenues disallowed by the Commission and ultimately allowed on appeal. This presents the possibility of irreparable injury to the utility when a stay is denied.

On the other hand, the Commission is aware of the fact that refunding amounts disallowed on appeal is not always an adequate remedy for ratepayers. Full refunds do not reach all ratepayers, due to deaths, changes of address, and other intervening circumstances. The interest allowed on overcollected rates does not always compensate ratepayers adequately for the loss of the use of their money. This is especially true of low income ratepayers, who may have forgone other necessities to meet their utility bills.

The Commission must also take into account the likelihood of success on appeal and, since a stay is equitable in nature, the conduct of the parties. All these factors must be weighed in deciding whether or not to grant a stay.

Application of Criteria to Interstate

The Commission finds that the balancing process discussed above results in deciding against a stay.

The Company is correct in pointing out the potential for irreparable injury, should the Commission's position on the recovery of taxes on unbilled revenues be reversed. The Commission believes the likelihood of such a reversal to be small, however. Furthermore, although any shortfall in the revenue requirement is of concern to the Commission, the amount of revenue of which the Company would be irreparably deprived is not of major proportions.

Conversely, the Commission finds a great likelihood that the higher rates attributable to a stay would cause widespread inconvenience and occasional hardship to ratepayers, who would not be fully compensated by any eventual refund.

Finally, the Commission finds that the Company has weakened its equitable claims by failing to comply with earlier Commission Orders in this proceeding. Interstate is currently collecting revenues at the interim rates level of \$37,568,162, despite the Commission's July 21, 1987 and August 20, 1987 Orders setting the revenue requirement at \$36,152,415.

The Commission notes that denying a stay on the issue of recovering taxes on unbilled revenues is consistent with its treatment of other utilities on the same issue. The Commission denied similar requests for stays by Otter Tail Power Company and Peoples Natural Gas Company. Order Establishing Revenue Deficiency to Reflect Provisions of the Tax Reform Act of 1986, E-017/GR-86-380, June 19, 1987; Order Approving Revenue Requirement Modifications to Reflect Provisions of the Tax Reform Act of 1986 and Approving Purchased Gas Adjustment Base, G-011/GR-86-144, June 19, 1987.

The Commission will deny the request for a stay, order the Company to file calculations of its revenue requirement and rates in accordance with the July 21 Order, and order refunds of all amounts collected in excess of those allowed under the July 21 Order.

ORDER

1. Interstate Power Company's request for a stay of the Commission's decision on the treatment of taxes on unbilled revenues is denied.
2. Interstate Power Company will submit calculations of its revenue requirement and rates in accordance with the July 21 Order within twenty days of the date of this Order.
3. No later than 60 days from the date of this Order, Interstate Power Company shall make refunds of the difference between amounts collectible under the July 21 Order, as partially stayed, and amounts actually collected since that time. These refunds shall be made either as a one-time credit on each customer's bill or by check, with interest from July 1, 1987 at the average prime rate.
4. No later than 30 days from the completion of the refund process, Interstate Power Company shall file a report with the Commission showing the actual amounts refunded by class and the interest rate applied.

5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)